

THE STATE

OF WYOMING

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DAVE FREUDENTHAL
GOVERNOR

Public Service Commission

HANSEN BUILDING, SUITE 300

2515 WARREN AVENUE

CHEYENNE, WYOMING 82002

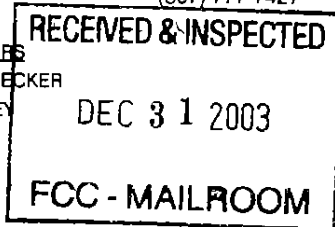
(307) 777-7427

FAX (307) 777-5700

TTY (307) 777-5723

http://psc.state.wy.us

COMMISSIONERS
STEVE ELLENBECKER
STEVE FURTNEY
KRISTIN LEE



December 24, 2003

STEPHEN G. OXLEY
SECRETARY AND CHIEF
COUNSEL
DAVID M. MOSIER
DEPUTY DIRECTOR

Michelle Carey, Competition Policy Division Chief
Federal Communications Commission
Wireline Competition Bureau
445 12th Street, SW
Washington, DC 20554

CC Docket No. 01-338
CC Docket No. 96-98
CC Docket No. 98-147

RE: In the Matter of the Implementation of the Federal Communications
Commission's Triennial Review Order Adopting New Rules for Network
Unbundling Obligations as They Relate to Enterprise Market Customers
Docket No. 90002-TF-03-1
(Wyoming Public Service Commission 90 Day Proceeding)

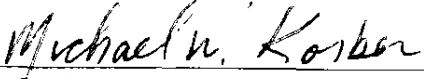
Ms Carey:

In response to the FCC's Triennial Review Order (TRO) released in CC Docket Nos. 96-98, 98-147 and 01-338 and FCC 03-36, the Wyoming Public Service Commission (WYPSC) opened the above referenced docket in order to address the new network unbundling requirements adopted by the FCC in the TRO. The TRO set forth a national presumption that incumbent local exchange carriers would not be required to continue to make available local circuit switching as an unbundled network element (UNE) to competitive local exchange carriers serving enterprise market customers using high-capacity loops (DS1 or higher).

In the Notice and Order opening this docket, the WYPSC informed parties that the WYPSC did not plan to conduct its own 90 day proceeding seeking a waiver of the national presumption. We did provide parties seeking to rebut this national presumption the opportunity, by a date certain, to petition the WYPSC and request a 90 day proceeding in Wyoming. No such petitions were received by the WYPSC. Therefore, the WYPSC authorized that an Order be issued closing this docket. A copy of that Order, issued and effective December 23, 2003 is attached for your records/convenience.

Please call or email if there are any questions or if anything further is required in this matter.

Sincerely,


Michael W. Korber
Commission Technical Staff
307.777.7428
mkorbe@state.wy.us

Enclosure

BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE IMPLEMENTATION OF)
THE FEDERAL COMMUNICATIONS) DOCKET NO. 90002-TF-03-1
COMMISSION'S TRIENNIAL REVIEW ORDER) (RECORD NO. 8607)
ADOPTING NEW RULES FOR NETWORK)
UNBUNDLING OBLIGATIONS AS THEY RELATE)
TO ENTERPRISE MARKET CUSTOMERS)
(NINETY-DAY REVIEW PROCESS))
)

ORDER CLOSING DOCKET
(Issued December 23, 2003)

1. The Federal Communications Commission (FCC) issued on August 21, 2003, its order in the *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket Nos. 01-338, 96-98, 98-147, Report and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36 (rel. Aug. 21, 2003). (The Triennial Review Order or TRO).

2. The FCC in the TRO set forth a national presumption that incumbent local exchange carriers (ILECs) would not be required to provide local circuit switching as an unbundled network element (UNE) to competitive local exchange carriers (CLECs) serving enterprise market customers using high-capacity loops (DS1 or higher). The FCC further found that special circumstances could create impairment if unbundled local circuit switching access was not available in particular markets to serve enterprise customers, and provided in the TRO a mechanism wherein the state commissions could rebut the national finding of non-impairment if the state commission found that specific markets warranted the continued provision of unbundled local circuit switching to CLECs serving enterprise market customers with high-capacity loops. State commissions seeking a waiver from the FCC would be required to conduct a detailed analysis of operational and economic issues and to file a waiver petition within 90 days of the effective date of the TRO. The FCC also delegated to the state commissions the authority to conduct ongoing reviews, to be completed within six months of the filing of a petition for such review. (47 C.F.R. § 51.319(d)(5)(ii)).

3. Based upon the provisions contained in the TRO, the Wyoming Public Service Commission (the Commission) issued on October 8, 2003, its Notice and Order Opening Docket and Request for Petitions and Comments, (Notice and Order) in this matter. In its Notice and Order, the Commission indicated that it did not plan to conduct

its own 90-day proceeding to seek a waiver of the national presumption of non-impairment, but would consider conducting a 90-day proceeding upon the filing of a petition by an affected competitive local exchange carrier (CLEC) setting forth its basis to rebut the FCC's national presumption. Petitioning CLECs were also required, within their petition, to propose an initial procedural and hearing schedule that would provide for the completion of the proceeding within the prescribed 90-day period. The Notice and Order required interested parties to file with the Commission, on or before October 22, 2003, their respective petitions indicating their intent to present evidence challenging the national presumption of non-impairment. The Commission's Notice and Order was published on a statewide-basis and was served on all CLEC's certificated to operate in the state of Wyoming, and other interested Wyoming certificated telecommunications providers. No petitions or comments were filed with the Commission either indicating an intent to challenge the presumption of non-impairment or requesting that the Commission conduct proceedings in this matter.

4. Based upon the fact that no persons or entities filed any comments or petitions seeking to challenge the FCC's national finding of non-impairment regarding the serving of DS1 enterprise market customers, the Commission finds and concludes that proceeding with an inquiry and public hearings regarding this matter is not necessary and therefore, this docket should be closed.

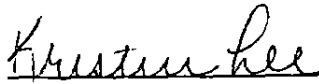
IT IS THEREFORE ORDERED THAT:

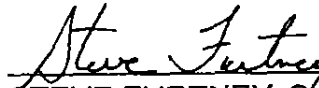
1. Pursuant to open meeting action taken on December 18, 2003, Docket No. 90002-TF-03-1 is hereby closed.

2. This Order is effective immediately.

MADE and ENTERED at Cheyenne, Wyoming this 23rd day of December 2003.

PUBLIC SERVICE COMMISSION OF WYOMING


KRISTIN H. LEE, Deputy Chair


STEVE FURTNEY, Commissioner




DAVID J. LUCERO, Assistant Secretary